

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH - COURT NO. III**

Service Tax Appeal No.51489 Of 2019

[Arising out of Order-in-Appeal No.IND-EXCUS-000-APP-402-18-19 dated 26.03.2019 passed by the Commissioner (Appeals), Customs, CGST & Central Excise, Indore (M.P.)]

M/s.Oriental Chemical Works,

Pransudha Bhawan,Opp. Railway Station,
Rau, Indore (M.P.).

....APPELLANT

Versus

**Commissioner of Central Goods &
Service Tax and Central Excise,**

Post Box No.10, Manik Bagh Road,
Manik Bagh Palace, Indore,
Madhya Pradesh-452 001.

.....RESPONDENT

Appearance:

Present for the Appellant : Shri Ayush Agarwal, Shri Rohit Sharma
and Shri Mohit Gupta, Advocates

Present for the Respondent: Shri S.K. Meena, Authorised
Representative.

CORAM:

HON'BLE MS. BINU TAMTA, MEMBER (JUDICIAL)

HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)

Final Order No. 51155/2026

Date of Hearing:07.07.2026

Date of Decision:13.07.2026

BINU TAMTA:

1. By the impugned order¹, the Commissioner (Appeals) confirmed the demand of service tax on 'Meeting Fees' paid to the Directors of the company under Reverse Charge Mechanism².

¹ Order-in-Appeal No.IND-EXCUS-000-APP-402-18-19 dated 26.03.2019

² RCM

2. Briefly stated, M/s. Oriental Chemical Works³ are engaged in providing various services namely Transport of Goods by Road/Goods Transport Agency Service" as defined under Section 65 of Finance Act, 1994⁴. During the course of audit, it was observed that appellant has incurred the expenses in respect of 'Meeting Fees' amounting to Rs.7,14,000/- and 'Director Remuneration' of Rs.3,30,000/- and, therefore, service tax of Rs.1,29,038/- under RCM is payable thereon during the period 2012-13 and 2013-14 along with interest and penalty. Accordingly, show cause notice dated 31.01.2018 was issued to the appellant. The Adjudicating Authority and the Appellate Authority confirmed the demand observing as under:-

"9. In this regard, I find that the meeting fees is payable to the directors only after attending the scheduled meeting otherwise it is not payable to them. Therefore, it is clear that said meeting fees is nothing but the remuneration paid to the directors for service provided by them to the company by attending such meetings and I find that it is to be a taxable service on which the Service Tax is payable by the appellant under Reverse Charge Mechanism in terms of entry at Sr.No.5A of Notification No.30/2012-ST dated 20.06.2012 as correctly held by the Adjudicating Authority. Therefore, I find that there is no reason to interfere in the impugned adjudication order on this issue. "

3. Hence the present appeal has been filed before this Tribunal.

³ The Appellant

⁴ Act, 1994

4. Shri Ayush Agarwal, learned Counsel for the appellant submitted that no service tax can be levied on 'Meeting Fees' paid as all the five Directors are full-time Directors and are, therefore, exempted from payment of service tax. The learned Counsel has referred to the provisions of Section 65B(44)(b) of the Act and has also relied on the earlier decisions of the Tribunal, which have settled the principle that consideration paid to whole time Directors would be treated as payment of salaries in as much as there would be employer–employee relationship and in such case, levy of service tax cannot be sustained.

5. Per contra, Shri S.K. Meena, learned Authorised Representative for the Revenue has reiterated the findings of the Authorities below and prayed that the appeal be dismissed.

6. Considering the submissions made by the learned counsel, we are in agreement that the issue whether service tax is payable on the 'Meeting Fees', as claimed by the Revenue has been settled by the Tribunal in the case of **Rent Works India Pvt. Ltd versus Commissioner of Central Excise, Mumbai–V⁵**, which has been followed subsequently in the case of **PCM Cement Concrete Pvt. Ltd versus Commissioner⁶** and **Maithan Alloys Ltd versus Commissioner of C.EX and ST, Bolpur⁷**. In the latest decision, the Bench observed, as under:-

"6. In the instant case, it is not in dispute that service tax has been duly paid on remuneration paid to directors who are not whole-time employee

⁵ 2016(43) STR 634 (Tri.-Mumbai)

⁶ 2018(9) GSTL 391 (Tribunal)

⁷ 2020(33) GSTL 229 (Tri.-Kolkata)

directors. The only dispute herein is for payment of remuneration to whole time directors, which is a fact on record. The provisions of Companies Act, 2013, contained in Section 2(94), duly defines 'whole-time director' to include a director in the whole-time employment of the company. A whole-time director refers to a director who has been in employment of the company on a full-time basis and is also entitled to receive remuneration. We further find that the position of a whole-time director is a position of significance under the Companies Act. Moreover, a whole-time director is considered and recognized as a 'key managerial personnel' under Section 2(51) of the Companies Act. Further, he is an officer in default [as defined in clause (60) of Section 2] for any violation or non-compliance of the provisions of Companies Act.

Thus, in our view, the whole-time director is essentially an employee of the Company and accordingly, whatever remuneration is being paid in conformity with the provisions of the Companies Act, is pursuant to employer-employee relationship and the mere fact that the whole-time director is compensated by way of variable pay will not in any manner alter or dilute the position of employer-employee status between the company assessee and the whole-time director. We are thoroughly convinced that when the very provisions of the Companies Act make whole-time director (as also in capacity of key managerial personnel) responsible for any default/offences, it leads to the conclusion that those directors are employees of the assessee company."

7. The levy of service tax on 'Meeting Fees' squarely falls within the exclusion clause given in the definition of 'Service' as defined under Section 65B(44)(b) of the Act, which provides:-

"Service" has been defined under Section 65B(44) of the Finance Act, 1994 as under:

"(44) "Service" means any activity carried out by a person for another for consideration, and includes a declared service, but shall not include—

(a) An activity which constitutes merely,—

(i) A transfer of title in goods or immovable property, by way of sale, gift or in any other manner; or

(ii) Such transfer, delivery or supply of any goods which is deemed to be a sale within the meaning of clause (29A) of article 366 of the Constitution; or

(iii) A transaction in money or actionable claim;

(b) A provision of service by an employee to the employer in the course of or in relation to his employment;

(c) Fees taken in any Court or tribunal established under any law for the time being in force."

8. The above provisions are explicit and leaves no manner of doubt that service by an employee to the employer during the course of its employment does not fall within the ambit of service and therefore, the logical conclusion is that no service tax can be imposed thereon.

9. We also find support from the Circular dated 01.12.2008 issued by CBEC, clarifying that so long as the activities performed are duties within the framework of the terms of employment, the amount paid by an employer to an employee, even if it is termed as commission, would not be commission, as

mentioned in the definition of 'Business Auxiliary Service' and service tax would not be leviable on such amount. Thus the Department itself has treated the relationship between an employee and an employer as distinct from the relationship between a service receiver and service provider.

10. We are of the firm view that no service tax is leviable on the 'Meeting Fees' and therefore, the impugned order is unsustainable. The appeal is, accordingly allowed.

[Order pronounced on 13th July, 2026]

**(BINU TAMTA)
MEMBER (JUDICIAL)**

**(P.V. SUBBA RAO)
MEMBER (TECHNICAL)**

Ckp.